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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,006	03/16/2007	Bernhard Jakoby	10191/4759	6976
26646 7590 05/20/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
GISSEL, GUNNAR J				
ART UNIT		PAPER NUMBER		
2856				
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05/20/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,006

Applicant(s)

JAKOBY, BERNHARD

Examiner

Gunnar J. Gissel

Art Unit

2856

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23 and 25-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23, 25-30 and 36-41 is/are allowed.
- 6) ☒ Claim(s) 31-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 31 and 32 are rejected under 35 U.S.C. 102(a) as being anticipated by Goodwin (2002/0194906).

Regarding Claim 31, Goodwin discloses a method for measuring the viscosity of a liquid, comprising: contacting at least one sensitive surface of a sensor with the liquid to be measured (paragraph 37); heating the liquid by a heating electrode in the area of the sensitive surface (paragraph 42); inducing the sensor to oscillate by applying an alternating voltage to the sensor (paragraphs 35, 37 and 38); and ascertaining a viscosity value of the liquid from values of electrical parameters measured by the sensor (paragraph 37).

Regarding Claim 32, Goodwin discloses a method comprising measuring the temperature of the liquid (paragraphs 34, 40).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin in view of Garvey (5,394,739).

Regarding Claim 33, Goodwin discloses a method, but does not explicitly disclose that upon reaching a predefined temperature that the heating of the liquid is interrupted.

Garvey discloses that upon reaching a predefined temperature, the heating of the liquid is interrupted, the electrical parameters are measured, and the viscosity value of the liquid is ascertained (Garvey, claim 12).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to combine the teachings of Garvey with the method of Goodwin because Garvey teaches a method of rapidly testing (column 2, lines 13-25).

5. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin as modified by Garvey, further in view of Niwa (2003/0051534).

Regarding Claims 34 and 35, Goodwin as modified by Garvey discloses a method, but does not disclose that the viscosity value of the liquid is ascertained for a plurality of predefined temperatures, or that a curve is plotted.

Niwa discloses that the viscosity value of the liquid is ascertained for a plurality of predefined temperatures (Niwa, abstract, figure 1). Niwa further discloses that a curve of the liquid's viscosity plotted against the temperature is generated based on the viscosity values of the liquid ascertained at the plurality of predefined temperatures (Niwa, figure 1).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to combine the teachings of Niwa with the method of Goodwin, as modified by Garvey because

the ability to measure viscosity at a variety of temperatures and make a plot of viscosity vs temperature is very important in industrial design (Niwa, column 6).

Allowable Subject Matter

6. Claims 23, 25-30, 36-41 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter:
The examiner agrees with Applicant's arguments regarding the allowable claims.

Response to Arguments

8. Applicant's arguments with respect to claims 31-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gunnar J. Gissel whose telephone number is (571)270-3411. The examiner can normally be reached on Mon-Fri, 7:30AM-5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571)272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GJG/

/Hezron Williams/
Supervisory Patent Examiner, Art Unit
2856

5/13/2009